

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM E. STAPE,	:	No. 3:18cv1821
Plaintiff	:	
	:	(Judge Munley)
v.	:	
	:	(Magistrate Judge Saporito)
ANDREW M. SAUL,	:	
Commissioner of Social Security,¹	:	
Defendant	:	

.....

ORDER

AND NOW, to wit, this 16th day of March 2020, we have before us for disposition Magistrate Judge Joseph F. Saporito, Jr.'s report and recommendation, which proposes vacating the Commissioner's decision and remanding the case for further proceedings. No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must

¹ At the time the case was filed, the Acting Commissioner of Social Security was Nancy A. Berryhill, and thus, plaintiff named her as the defendant. Andrew M. Saul became the Commissioner of Social Security on June 17, 2019. See OFFICIAL SOCIAL SECURITY WEBSITE <https://www.ssa.gov/agency/commissioner.html> (last accessed March 13, 2020). Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, as the new Commissioner of Social Security, Andrew M. Saul is automatically substituted for the original defendant. FED. R. CIV. P. 25(d).

determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation”); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge’s report and recommendation (Doc. 18) is **ADOPTED**;
- 2) The decision of the Commissioner of Social Security is **VACATED**;
- 3) The Clerk of Court is directed to enter judgment in favor of the plaintiff and against the defendant and to remand this case to the Commissioner for further proceedings consistent with this order and the report and recommendation;
- 4) Further, the Clerk of Court is directed to close this case.

BY THE COURT:

s/James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court